

PATENT

Docket No. RSW920030135US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: Kyle Brown

Examiner: M. Airapetian

APPLICATION NO. 10/687,714

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CASE NO. RSW920030135US1

**TITLE: METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT
FOR LONG-TERM ON-LINE COMPARISON SHOPPING**

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MAIL STOP APPEAL BRIEF-PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attention: Board of Patent Appeals and Interferences

APPELLANTS' BRIEF

This Appeal Brief is in furtherance of the Notice of Appeal filed in this case on December 22, 2006. The Commissioner is hereby authorized to charge any fees that may be required, any deficiencies that may arise, and to credit any overpayment that may be owed to Appellants in connection with this brief and application in general to Deposit Account No. 09-0461.

1. REAL PARTY IN INTEREST

The present application is assigned to International Business Machines Corporation, having its principal place of business at New Orchard Road, Armonk, New York 10504. Accordingly, International Business Machines Corporation is the real party in interest.

2. RELATED APPEALS AND INTERFERENCES

The Appellants, assignee, and the legal representatives of both are unaware of any other appeal or interference which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

3. STATUS OF CLAIMS

- A. Claims canceled: None
- B. Claims withdrawn from consideration but not canceled: None
- C. Claims pending: 1-27
- D. Claims allowed: none
- E. Claims rejected: 1-27
- F. Claims appealed: 1-27

Appealed Claims 1-27 as currently pending are attached as the Claims Appendix hereto.

4. STATUS OF AMENDMENTS

A Reply under 37 C.F.R. §1.111 was filed on July 27, 2006; claim amendments were made. In response, the Examiner issued the final Office Action appealed herein on September 25, 2006.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1: A computer-implemented method for identifying acquisition parameters for one or more commodities, comprising the steps of: identifying said one or more commodities using one or more searchable identification parameters (page 9, lines 7-13); defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored (page 10, lines 19-22); monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters (page 11, lines 6-15); and outputting results of said monitoring step (page 11, lines 16-21).

Claim 10: A computer-implemented system for identifying acquisition parameters for one or more commodities, comprising: means for identifying said one or more commodities using one or more searchable identification parameters (page 9, lines 7-13); means for defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored (page 10, lines 19-22); means for monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using

said one or more searchable identification parameters (page 11, lines 6-15); and means for outputting results of said monitoring step (page 11, lines 16-21).

Claim 19: A computer program product for identifying acquisition parameters for one or more commodities, the computer program product comprising a computer-readable storage medium having computer-readable program code embodied in the medium, the computer-readable program code comprising: computer-readable program code that identifies said one or more commodities using one or more searchable identification parameters (page 9, lines 7-13); computer-readable program code that defines a monitoring duration during which acquisition parameters for said one or more commodities will be monitored (page 10, lines 19-22); computer-readable program code that monitors a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters (page 11, lines 6-15); and computer-readable program code that outputs results of said monitoring step (page 11, lines 16-21).

The present invention is a method, system and computer product for automatically monitoring multiple publicly-searchable, network-accessible databases used to maintain information relating to web-based commerce sites(e.g., web-based shopping sites, catalogs, auctions, etc.) for acquisition parameters (e.g., prices, rental amounts, etc.) on one or more commodities for a predetermined period of time. Specifically, in the present invention, a user utilizes an agent programmed with a search strategy. Once programmed, the agent scans sites and/or a set of other publicly searchable databases to see if an item meeting the user's acquisition parameters is available.

When a determination is made that the item can be purchased at or below a target price, the agent asynchronously notifies the user (e.g., through a pop-up dialog window or an email) of the details regarding where and how the item can be purchased. However, if the predetermined period of time elapses without such a determination being made, the user can then re-enter altered acquisition criteria and being a new search.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellants request the Board to review the following rejections:

1. Rejection of Claims 1-6 and 8-27 under 35 U.S.C. §103(a) based on U.S. Patent Application No. 2005/0010494 to Sloan et al. in view of U.S. Patent No. 6,892,186 to Preist.

7. ARGUMENT

The Cited Art Does Not Render the Claims Obvious

The Examiner Has Not Established a *Prima Facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combined reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143

The present invention, as discussed above, provides an interface for a user to input acquisition parameters to be used in searching for online commodities. Additionally, the user

defines a duration during which the acquisition parameters of one or more commodities will be monitored. Once the acquisition parameters and monitoring duration have been set an agent searches multiple public databases of stored information relating to commodities available from numerous online merchants for the defined duration of time. Specifically, Claim 1 recites:

“defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;
monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters;”

This monitoring of multiple online databases over a defined duration is advantageous over the prior art as no system specific database needs to be created, since the agent has the capability to search any available public database. Additionally, once the defined duration of time has elapsed, the user can reconfigure the acquisition parameters and begin a new search. This is advantageous as the searching agent is not pointlessly searching the same databases again with the same parameters. Each additional independent claim (Claims 10 and 19) states a variation of these limitations. Neither Mourad nor Preist teach or suggest these novel claimed features, either alone or in combination.

In the non-final Office Action dated February 27, 2006, the Examiner acknowledged that Mourad does not teach defining a monitoring duration during which acquisition parameters for one or more commodities will be monitored. In the final Office Action dated September 25, 2006, the Examiner reversed this position as the Examiner asserted Mourad does in fact teach defining a monitoring duration during which acquisition parameters for one or more commodities

will be monitored. The Examiner cited paragraph [0052] of Mourad as teaching this feature, and provided the following argument:

In response to Applicant's argument that prior art does not teach defining a monitoring duration during which acquisition parameters will be monitored, it is noted that Mourad does, in fact, teach said feature. Specifically, Mourad teaches *'the data feed is usually established at least once per day'* which indicates a time interval and duration [0052]" (Final Office Action, page 6).

Appellants respectfully disagrees with the Examiner's new assertion that Mourad teaches defining a monitoring duration during which acquisition parameters will be monitored. In the citation quoted by the Examiner, Mourad is discussing how retailer data is uploaded to a searchable database. This uploading is usually performed once a day ensuring that the database contains timely, accurate retail information. However, this is distinctly different from the present claimed invention. There are two key components to the limitation "defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored". First, there is the defining of a duration. Second, there is an action associated with this duration, primarily monitoring acquisition parameters (previously defined by a user) for one or more commodities.

With respect to the first component, Mourad fails to teach defining a duration. Merely stating an event happens usually at least once a day is not defining a duration. A duration is a finite period of time, and Mourad fails to disclose such a defining. With respect to the second component, Mourad fails to teach that this data feed "usually established at least once a day" is for monitoring acquisition parameters (previously defined by a user) for one or more

commodities as is specifically claimed in the present invention. The data feed of Mourad is merely a way for a database to updates its records of what retailers have available for sale.

The addition of Preist as a teaching reference to Mourad does not meet the additional criteria required for an obviousness rejection as defined above. A proper obviousness rejection requires a teaching or suggestion of all claimed limitations. As discussed above, Mourad fails to teach or reasonably suggest defining a duration for monitoring acquisition parameters. The addition of Preist fails to teach or reasonably suggest this limitation as well.

Preist discloses a method of monitoring multiple simultaneous auctions in such a manner that a user obtains the best price for goods and services from the multiple auctions. A user sets their criteria (e.g., price limit) and then can watch the multiple auctions while an agent for the user insures the user gets the best possible deal. The Examiner relies on Preist for an alleged teaching of monitoring multiple publicly-searchable databases. Preist, however, does not disclose “defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored” as is claimed in the present invention and is lacking from Mourad. Without such a teaching, Mourad and Preist, whether considered alone or in combination, do not render the present invention obvious.

Since these limitations are neither taught nor suggested by the cited art, the Board is respectfully requested to reconsider and withdraw the rejection of Claims 1-6 and 8-27 over Mourad in view of Preist.

8. CONCLUSION

For the foregoing reasons Appellants respectfully request this Board to overrule the Examiner's rejections and allow Claims 1-27.

Respectfully submitted,

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CLAIMS APPENDIX

CLAIMS INVOLVED IN THIS APPEAL:

1. (Previously presented) A computer-implemented method for identifying acquisition parameters for one or more commodities, comprising the steps of:

identifying said one or more commodities using one or more searchable identification parameters;

defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;

monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and

outputting results of said monitoring step.

2. (Original) The computer-implemented method of claim 1, wherein said one or more publicly-searchable databases includes shop-bot sites.

3. (Original) The computer-implemented method of claim 2, wherein said monitoring duration defining step includes at least the steps of:

defining an overall duration for conducting said monitoring step; and

defining a refresh interval for said monitoring step.

4. (Original) The computer-implemented method of claim 3, further comprising the step of:

identifying one or more alarm conditions; and

wherein said monitoring step further comprises at least the step of identifying the occurrence of one or more of said alarm conditions.

5. (Original) The computer-implemented method of claim 4, wherein said outputting step comprises at least the steps of:

sending an email to a user of said method upon the occurrence of one or more of said alarm conditions.

6. (Original) The computer-implemented method of claim 4, wherein said outputting step comprises at least the steps of:

sending an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions.

7. (Original) The computer-implemented method of claim 4, wherein said outputting step comprises at least the steps of:

sending an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

8. (Original) The computer-implemented method of claim 4, wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value.

9. (Original) The computer-implemented method of claim 8, wherein said acquisition parameter comprises a sale price.

10. (Previously presented) A computer-implemented system for identifying acquisition parameters for one or more commodities, comprising:

means for identifying said one or more commodities using one or more searchable identification parameters;

means for defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;

means for monitoring a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and

means for outputting results of said monitoring step.

11. (Original) The computer-implemented system of claim 10, wherein said one or more publicly-searchable databases includes shop-bot sites.

12. (Original) The computer-implemented system of claim 11, wherein said means for monitoring duration defining includes at least:

means for defining an overall duration for conducting said monitoring step; and

means for defining a refresh interval for said monitoring step.

13. (Original) The computer-implemented system of claim 12, further comprising:

means for identifying one or more alarm conditions; and

wherein said means for monitoring further comprises at least means for identifying the occurrence of one or more of said alarm conditions.

14. (Original) The computer-implemented system of claim 13, wherein said means for outputting comprises at least:

means for sending an email to a user of said method upon the occurrence of one or more of said alarm conditions.

15. (Original) The computer-implemented system of claim 13, wherein said means for outputting comprises at least:

means for sending an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions.

16. (Original) The computer-implemented system of claim 13, wherein said means for outputting comprises at least:

means for sending an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

17. (Original) The computer-implemented system of claim 13, wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value.

18. (Original) The computer-implemented system of claim 17, wherein said acquisition parameter comprises a sale price.

19. (Previously presented) A computer program product for identifying acquisition parameters for one or more commodities, the computer program product comprising a computer-readable storage medium having computer-readable program code embodied in the medium, the computer-readable program code comprising:

computer-readable program code that identifies said one or more commodities using one or more searchable identification parameters;

computer-readable program code that defines a monitoring duration during which acquisition parameters for said one or more commodities will be monitored;

computer-readable program code that monitors a plurality of publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters; and

computer-readable program code that outputs results of said monitoring step.

20. (Original) The computer program product of claim 19, wherein said one or more publicly-searchable databases includes shop-bot sites.

21. (Original) The computer program product of claim 20, wherein said computer-readable program code that monitors duration defining includes at least:

computer-readable program code that defines an overall duration for conducting said monitoring step; and

computer-readable program code that defines a refresh interval for said monitoring step.

22. (Original) The computer program product of claim 21, further comprising:

computer-readable program code that identifies one or more alarm conditions; and

wherein said computer-readable program code that monitors further comprises at least computer-readable program code that identifies the occurrence of one or more of said alarm conditions.

23. (Original) The computer program product of claim 22, wherein said computer-readable program code that outputs comprises at least:

computer-readable program code that sends an email to a user of said method upon the occurrence of one or more of said alarm conditions.

24. (Original) The computer program product of claim 22, wherein said computer-readable program code that outputs comprises at least:

computer-readable program code that sends an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions.

25. (Original) The computer program product of claim 22, wherein said computer-readable program code that outputs comprises at least:

computer-readable program code that sends an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

26. (Original) The computer program product of claim 22, wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value.

27. (Original) The computer program product of claim 26, wherein said acquisition parameter comprises a sale price.

EVIDENCE APPENDIX

No additional evidence is presented.

RELATED PROCEEDINGS APPENDIX

No related proceedings are presented.